

REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER

TO: LICENSING COMMITTEE

DATE: TUESDAY 15TH NOVEMBER 2016

Report Author: Andrew Smith
Tel. No: 01282 661987
E-mail: andrew.smith1@pendle.gov.uk

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 – EUROPA, 94 BARKERHOUSE ROAD, NELSON

PURPOSE OF REPORT

To consider a review application made by Lancashire County Council Trading Standards Service in relation to continued breaches of the crime and disorder licensing objective.

RECOMMENDATIONS

- (1) The application must be determined with a view to promoting the four licensing objectives, namely – prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.
- (2) The Committee must have regard to the application and any relevant representations received.
- (3) The Committee must have regard to the Guidance issued by the Government.
- (4) The Committee must have regard to its own Statement of Licensing Policy.

Having taken all of the above into consideration, the Committee must give reasons for its decision.

REASONS FOR RECOMMENDATIONS

The Licensing Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives –

- (a) modify the conditions on the licence (and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added);
- (b) exclude a licensable activity from the scope of the licence;
- (c) remove the designated premises supervisor (DPS);
- (d) suspend the licence for a period not exceeding three months;
- (e) revoke the licence.

ISSUE

A. The Application

1. The application (received 19th September 2016) is from Lancashire County Council Trading Standards Service. The contact for the application's submission is Mr. Nick McNamara (Principal Officer (Legal)). The application is attached as Appendix 1.
2. The application specifies continued breaches of the following licensing objective for the reason of its submission: the prevention of crime and disorder.
3. The premises has held a licence (No.: PEN(A)0431) since August 2013. A copy is attached as Appendix 2.

B. Application Details

4. The application for the review of the premises licence is made by Lancashire County Council Trading Standards Service. They report persistent offences in relation to the sale and storage of smuggled tobacco at the premises. Their investigations also give rise to serious concerns that the premises are part of a larger network of shops dealing in contraband tobacco products.
 - a. The report makes reference to section 11.27 of the Guidance issued by the Government under section 182 of the Licensing Act 2003 which includes the following statement:
 - 'There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of licensed premises:
...for the sale or storage of smuggled tobacco and alcohol.'
 - b. Furthermore, the report refers to the same Guidance at section 11.28 which states:
 - 'It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.'
5. The application is accompanied by a witness statement from Trading Standards Officer Dawn Robinson detailing involvement with the premises and individuals involved with the running of it, and concerns regarding illicit tobacco. The statement covers the period February 2015 to August 2016.
6. The application is also accompanied by questions drafted by Senior Trading Standards Officer Michael Craig and purportedly answered by Mr. Quayim Raja, after he failed to attend an interview with Trading Standards in March 2016, regarding the sale of improperly labelled tobacco products.
7. The current premises licence holder of the premises is Mr. Azhar Iqbal of the premises address. There is no existing DPS, as the previous incumbent (Ms. Tasleem Balesaria of 43 Lammack Road, Blackburn) removed herself in July 2016. As such, no sales of alcohol should currently be taking place on the premises.

8. A representation to the application was made by Lancashire Constabulary (received 1st October 2016) in full support of the application for the review of the premises licence by Trading Standards. This representation details continual difficulty the Police have had in attempting to meet and speak to anyone involved in the management of the premises, and notably the premises licence holder or designated premises supervisor (DPS). A copy of the representation is attached as Appendix 3.
9. A representation was also made by Pendle Borough Council's Licensing Enforcement Officer on behalf of the Licensing Authority (received 12th October 2016) in full support of the application for review. This representation again details difficulty in speaking to those with management responsibility of the premises and concerns regarding adherence to the premises licence conditions and licensing legislation. A copy of the representation is attached as Appendix 4. Documents referred to in the representation are attached as Appendices 4 A to D.

C. Background Information

10. The Licensing Committee may recall that applications to transfer the premises licence (into the name Euro Foods (Nelson) Ltd.) and vary the premises licence to specify an individual as the DPS (into the name Mr. Arshad Javed) for the premises licence, were rejected by it on 20th September 2016 following representations from Lancashire Constabulary. The positions of premises licence holder and DPS have therefore reverted to the previous incumbents.
11. Under the Licensing Act 2003 a licensing authority must hold a hearing to consider an application for the review of a premises licence and any relevant representations (section 52 (2) Licensing Act 2003).
12. Under the Licensing Act 2003 in England and Wales the determination of an application for a premises licence where representations have been made can be made by a sub-committee as arranged by the licensing committee (sections 10 (4) (a) (iv) & (v) Licensing Act 2003).
13. A party who wishes to withdraw any representations they have made, may do so, by giving notice to the Authority no later than 24 hours before the day or the first day on which the hearing is to be held, or orally at the hearing (section 10 (a) and (b) Licensing Act 2003 (Hearings) Regulations 2005).
14. Time limits for hearings may be extended where it is in the public interest, and hearings can be adjourned where the Authority considers it necessary for further consideration of representations (sections 11 and 12 Licensing Act 2003 (Hearings) Regulations 2005).
15. Except where an Authority considers that the public interest in doing so outweighs the public interest in the hearing, the public shall not be excluded from a hearing (section 14 Licensing Act 2003 (Hearings) Regulations 2005).
16. At the beginning of the hearing, the Authority shall to explain to the parties the procedure it proposes to follow (section 22 Licensing Act 2003 (Hearings) Regulations 2005).

D. Considerations

17. The Licensing Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives –

- a. modify the conditions on the licence (and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added);
- b. exclude a licensable activity from the scope of the licence;
- c. remove the designated premises supervisor (DPS);
- d. suspend the licence for a period not exceeding three months;
- e. revoke the licence.

18. The Licensing Committee must have regard to both the Guidance issued by the Government and its own Statement of Licensing Policy.

19. All decisions of the Licensing Authority, and any conditions imposed, must be appropriate for the promotion of the licensing objectives.

IMPLICATIONS

Policy: There have been no changes to policy.

Financial: None arising directly from the report.

Legal: None arising directly from the report.

Risk Management: None arising directly from the report.

Health and Safety: None arising directly from the report.

Sustainability: None arising directly from the report.

Community Safety: None arising directly from the report.

Equality and Diversity: None arising directly from the report.

APPENDICES

1. Copy of application.
2. Copy of existing Premises Licence (PEN(A)0431).
3. Representation from Lancashire Constabulary.
4. Representation from Licensing Authority.
 - a. Copy of DPS removal request (Tasleem Balesaria).
 - b. Letter to Mr. A Iqbal regarding removal of DPS.
 - c. Copy of premises licence conditions.
 - d. Follow up letter from licensing visit 2015.

LIST OF BACKGROUND PAPERS

None